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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,218

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Erik Houbolt

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EXAMINER

PRONE, JASON D

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,218	<b>Applicant(s)</b> HOUBOLT ET AL.	
	<b>Examiner</b> Jason Daniel Prone	<b>Art Unit</b> 3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-6 and 8-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6 and 8-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

First it is unclear what is meant by sense of rotation. It is unclear what structure allows the roller to have a sense of rotation. It is unclear how the roller has more than one sense of rotation (i.e. sense of rotation and a reeling sense of rotation).

Claim 11 recites the limitation "the sense of rotation" on line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-6, 8-10, and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Avidor (5,933,960) in view of Zucker (6,442,840).

With regards to claims 1, 18, and 19, Avidor discloses the invention including at least one cutting blade (Fig. 16), an actively drivable device arranged behind the cutting

blade relative to a cutting direction (122), a guard arranged in front of the cutting blade (104), a pivot axis between the shaving head and a handle attached to the shaving head (132), the pivot axis being arranged at least essentially parallel to the cutting blade (132), the pivot axis is arranged such that a force component applied perpendicularly to the cutting direction is distributed at least essentially in equal parts to the stretching and guard means (132), and the pivot axis is arranged such that a force component applied perpendicularly to the cutting direction is distributed to the device and the guard at a ratio that remains substantially constant for different angles of the handle with respect to the shaving head (Fig. 17).

With regards to claims 2 and 4-6, Avidor discloses at least one spring element (150), the guard capable of performing a hair erecting/lubrication function (104), and the guard comprises at least one strip arranged parallel to the cutting blade (104).

With regards to claims 8-10, Avidor discloses the pivot axis is arranged closer to the guard (Fig. 17), the pivot having a coupling arranged to couple the shaving head to the handle (132), and the device has at least one actively drivable roller (122).

With regards to claims 12-17, Avidor discloses the device is driven via a movement over skin (122), the stretching device is driveable by an electromotor (column 10 lines 20-23), the motor is associated with the shaving head/handle (column 10 lines 20-23 and Fig. 13), a second coupling for coupling the device to the motor (column 10 lines 20-23), and the pivot axis is arranged at a middle position (Fig. 17).

However, with regards to claims 1, 9, 10, 12, 13, 16, and 19, Avidor fails to disclose the actively drivable device is a skin stretching device.

Zucker teaches it is old and well known in the art of shaving devices to incorporate 2 rollers that cooperate to stretch the skin (Column 5 lines 14-28).

Therefore, it is well within ones technical grasp to have substituted roller 122 with a roller that would cooperate with guard 104 to stretch the skin. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have replaced the roller of Avidor with a skin stretchng roller, as taught by Zucker, because the substitution of one known element for another would have yielded predictable results and all claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective function and the combination would have yielded predictable results

5. It is to be noted that claim 11 has not been rejected over prior art. It may or may not be readable over the prior art but cannot be determined at this time in view of the issues under 35 USC § 112.

### ***Response to Arguments***

6. Applicant's arguments with respect to skin stretching device have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments filed 23 January 2009 have been fully considered but they are not persuasive.

Clearly pivot 132 is essentially in the middle or in an area that can be called a middle portion and would therefore distribute forces essentially equally to both 122 and 104. A user would grasp the handle and apply a force to the handle in the desired direction. This force would be transmitted through the pivot point to shaving frame to

both rollers. If the force was not applied to the rollers, the rollers would not move when the handle is moved. In light of this explanation, it is true that the handle applies a force to the rollers through the pivot point and that this force would be distributed throughout the frame with a portion of this force being distributed to each roller. All of the forces distributed would be essentially equal to one another. As disclosed in the previous Office action and restated below, essentially equal is not the same as equal and without further structure detailing what is meant by "essentially equal", any numbers remotely close could be considered essentially equal. For example purposes only, if a force of 10 is applied to the handle through the pivot point and is distributed to the rollers, one roller may receive a force of 4 while the other roller may receive a force of 6. These forces are essentially equal.

A horizontal force at the pivot point is going to be distributed the same manner each and every time regardless of the size of the force. The position of the handle will not change this fact because regardless of the position of the handle relative to the shaving head, the direction of the force being applied will not change.

In Avidor, it is clear that both items 122 and 104 would have a perpendicular force applied to them during shaving and it would also be understood that these forces may not be equal but definitely could be considered "essentially equal" as claimed. Essentially or basically equal could be any two numbers. For example,  $A=1$ ,  $B=2$ ,  $C=10$ , and  $D=1,000,000$ . When comparing A, B, and C, items A and B could be essentially equal and one could make the case that A or B is not essentially equal to C. However, when comparing letters A, C, and D, items A and C could be considered

essentially equal. Without further structure detailing what is meant by “essentially equal”, any numbers remotely close could be considered essentially equal.

In response to applicant's argument on page 15 lines 16-19, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the forces are distributed equally to both 104 and 122) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As stated above, “essentially equal” and “equal” are not the same thing.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Daniel Prone whose telephone number is (571)272-4513. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

19 March 2009

/Jason Daniel Prone/

Primary Examiner, Art Unit 3724